

**REMARKS**

Claims 1-23 are pending and have been amendment. Claims 24-29 have been canceled.

In the Office Action, claims 16-29 were rejected under 35 USC § 101 for failing to define patentable subject matter. Applicants request the Examiner to withdraw this rejection for the following reasons.

Claim 16 recites a digital audio system. A system is one of the statutory classes of patentable subject matter. Moreover, the system includes a reading device, converter, storage device, detector and audio amplifier. (See Figure 3). All of these elements are structural elements that may be implemented in hardware or software. Either way, claim 16 satisfies the requirements of patentable subject matter under § 101 and MPEP § 2106. Withdrawal of the rejection is respectfully requested.

Claims 1-19 and 21-29 were rejected under 35 USC § 103(a) for being obvious based on a combination of the Replay Gain standard and MP3 Gain version 0.9.7. The rejection is respectfully traversed.

Claim 1 recites a method for adjusting an output level of audio data to be reproduced. This method includes temporarily storing audio data to be reproduced of the searched audio file and detecting an output level of the temporarily stored audio data, and then adjusting a gain of an audio output amplifier based on the detected output level to output said adjusted audio data to be reproduced. In addition to these features, claim 1 recites that “the temporarily stored audio data includes scale factors of sub-bands of audio frames of the audio file, the scale factors used

to obtain the output level.” (See, for example, Paragraphs [38], [49], and [50] for support). These features are not taught or suggested by the cited references.

The Replay Gain standard defines a replay gain which mp3 encoders use to set the volume for each track (audio file) to be played. The volume is set by storing track relative volume adjustment information in a header area of the track. The Replay Gain standard, however, does not adjust the gain of an audio output amplifier based on a detected output level, wherein “the temporarily stored audio data includes scale factors of sub-bands of audio frames of the audio file, the scale factors used to obtain the output level,” as recited in claim 1.

The MP3Gain version 0.9.7 also fails to teach or suggest these features. The MP3 Gain version 0.9.7 performs a pseudo-implementation of the Replay Gain standard in which the user is able to keep the volume the same for every song on a CD. Once the mp3gain has adjusted the volume level and a user clicks on a track’s gain, album gain, or constant gain, the settings are applied.

However, as noted above, the Replay Gain standard only provides volume adjustment for individual tracks based on track relative volume information stored in a header area. The Replay Gain standard, and thus MP3 Gain version 0.9.7, does not adjust the gain of an audio output amplifier based on a detected output level, wherein “the temporarily stored audio data includes scale factors of sub-bands of audio frames of the audio file, the scale factors used to obtain the output level” as recited in claim 1.

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Amdt. dated December 27, 2007  
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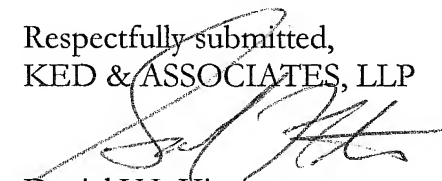
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Based on these differences, it is respectfully submitted that claim 1 and its dependent claims are allowable. Claims 10 and 16 have been amended to recite features similar to those which patentably distinguish claim 1 from the cited combination. Accordingly, it is submitted that claims 10 and 16 are allowable along with their dependent claims.

In view of the foregoing amendments and remarks, it is respectfully submitted that the application is in condition for allowance. Favorable consideration and timely allowance of the application is respectfully requested.

To the extent necessary, a petition for an extension of time under 37 CFR § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this, concurrent and future replies, including extension of time fees, to Deposit Account 16-0607 and please credit any excess fees to such deposit account.

Respectfully submitted,  
KED & ASSOCIATES, LLP



Daniel Y.J. Kim  
Registration No. 36,186

Samuel W. Ntiros  
Registration No. 39,318

P.O. Box 221200  
Chantilly, Virginia 20153-1200  
(703) 766-3777 DYK:HDG:llhd  
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**Please direct all correspondence to Customer Number 34610**